



Attorneys and Counselors

March 9, 2007

Robert George
Kutak Rock LLP
214 W Dickson St
The Three Sisters Building
Fayetteville AR 72701-5221

(VIA EMAIL)

Re: *State of Oklahoma v. Tyson et al.*,
No. 05-CV-0329-GKF-SAJ

Dear Robert:

I wish to respond to your letters of February 28, 2007 and March 5, 2007.

First, I will address your inquiry regarding our intentions relating to producing the data developed during the State's attempt to use accepted scientific methods to develop a method for investigating the extent to which DNA can be used to track poultry waste through a variety of media in the IRW. I do believe that the information that we are gathering at this stage of our DNA investigation is of a decidedly different character than the data that we have produced. This is exactly the type of expert investigation that the Federal Rules protect. I also do not believe that it is covered either explicitly or implicitly by the Court's order. Even so, it is not our intention to withhold this data from the Defendants or to only present it at the time that expert reports are filed. We are still developing a method for this. Once we have determined the extent to which this is possible, it is our intention to provide you with the data that we have developed in this effort. This is regardless of our findings. Our offer to produce this data, does not include any expert opinions reached on the basis of the data. To the extent that such opinions will be offered at trial, those will be provided as required by the Federal Rules. As of today, I am not in a position to provide a date when we will be prepared to provide this data, but I hope that we should be in a position to provide it by this summer if not sooner.

Second, I will address your request that we produce spreadsheets relating to our sampling, containing either all of the data or at least GPS coordinates and sample designations. At this point, you have all the information you need to produce either of those. The information we have provided to you is in the same order that we have received it and kept it. From this, you can determine the coordinates of every sample taken and the identity of that sample, and you can then trace it to the lab and determine the results of the lab analysis. We have, in fact, expended a considerable sum of money



doing data entry to make that information available for our scientists. Given that you have the information, I do not understand the basis for our now providing you with data entry services. If you have a legal basis for this, please let me know.

During our phone call of March 6, 2007, you indicated that Tyson was going to provide such information in its production. As I stated, should Tyson do that, I am open to reconsidering this. I am cautious concerning your proposal due to the fact that we do not know, at this point, the equality in such a proposal. That is, during our previous conversations regarding sampling being done by Defendants, there has been a strong suggestion that the Defendants have not done much, if any, sampling on their own. My recollection is that Scott McDaniel has been definite on that point, explaining that the Defendants' strategy is to attack the Plaintiff's science rather than do any sampling of their own. The only Defendants' data that I am aware of is the data that you have from analyzing the litter and soil samples collected by Plaintiff and shared with you. In addition to that, Defendants clearly have hundreds, if not thousands, of hours of video of Plaintiff's scientists gathering soil and litter samples. There may, of course, be additional data collected by Defendants and I may have misunderstood the nuances of what we were being told about the sampling efforts of the Defendants. My point, though, is that, at this date, I am unable to judge the equality of the proposed offer. If, for helping you organize all of the massive data that we have produced and giving you the benefit of our data entry efforts, what I get in return are the GPS coordinates for the soil samples that we have collected, something that we already have, there will be a decided inequality in your suggestion of reciprocity. As I said, we are willing to revisit this issue upon the production of your data. Until then, I believe that the best path is for each of us to assume the duty of doing our own data entry.

I hope this is helpful and clear. Should you have any questions or wish to discuss this matter further, please call.

Sincerely,

A handwritten signature in black ink, appearing to read "L. W. Bullock", written in a cursive style.

Louis W. Bullock

cc (via email): John Elrod